
Introduced by Senators Florez and Perata

February 22, 2005

An act to add Part 8.5 (commencing with Section 44410) to Division 26 of the Health and Safety Code, relating to financing an air quality program, by providing the funds necessary therefor through the issuance and sale of bonds in the State of California, and by providing for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

SB 863, as introduced, Florez. California Clean Air Bond Act.

Under existing law, various bond acts have been approved by the voters to provide funds for projects, facilities, and programs.

This bill would enact the California Clean Air Bond Act which, if adopted, would authorize, for purposes of financing an air quality program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,150,000,000. The bill would require the Secretary of State to submit the bond act to the voters at the November 14, 2006, statewide general election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 8.5 (commencing with Section 44410) is
2 added to Division 26 of the Health and Safety Code, to read:

1 PART 8.5. CALIFORNIA CLEAN AIR BOND ACT

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3 CHAPTER 1. SHORT TITLE AND FINDINGS AND DECLARATIONS

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5 44410. This part shall be known and may be cited as the
6 California Clean Air Bond Act.

7 44411. The Legislature finds and declares that:

8 (a) California's air pollution continues to pose significant
9 dangers to the public's health in both urban and many rural areas.

10 (b) California's child asthma rates are twice the national
11 average. The diagnosis and treatment of childhood asthma can be
12 improved through statewide standards and a database for asthma
13 screening.

14 (c) Incentives for businesses to develop and implement new
15 and innovative clean air technologies that reduce air pollution
16 will help alleviate the air pollution problems in the state.

17 (d) Air pollution from agricultural sources can be reduced by
18 encouraging alternatives to current burning, tillage, fertilizing,
19 and other farming practices employed in some areas. Agricultural
20 emissions have a significant effect on the ability of areas of the
21 state, including, but not limited to, the San Joaquin Valley, to
22 achieve health-based state and federal ambient air standards.

23 (e) The development of agricultural lands into urban and
24 residential uses creates additional air quality problems.
25 Incentives to maintain agricultural uses of land can have a
26 positive net benefit on air quality through the absorption of
27 carbon dioxide.

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29 CHAPTER 2. DEFINITIONS

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31 44412. The following definitions apply to this part:

32 (a) "Air pollution" means emissions of pollutants regulated by
33 the state board and including, but not limited to, oxides of
34 nitrogen (NO_x), hydrocarbons, particulate matter, and toxic air
35 contaminants.

36 (b) "Fund" means the California Clean Air Fund established
37 pursuant to Section 44413.

38 (c) "Projects" and "eligible projects" are projects for one or
39 more of the following purposes:

(1) The acquisition, construction, modification, or restoration of capital assets such as land and water resources, buildings, and facilities, as well as interests in these capital assets, and related costs.

(2) The acquisition of equipment, tools, vehicles, vessels, long-term contracts, or other enforceable interests in capital assets necessary to achieve the objectives of the program.

(3) The replacement, repowering, or rebuilding of equipment.

CHAPTER 3. CALIFORNIA CLEAN AIR FUND

44413. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the California Clean Air Fund, which is hereby established in the State Treasury.

CHAPTER 4. CALIFORNIA CLEAN AIR BOND PROGRAM

44414. The state board, the Department of Food and Agriculture, and the Department of Conservation shall adopt regulations as needed for the administration of programs funded pursuant to this chapter based on the following criteria:

(a) Projects shall provide cost-effective emission reductions of air pollution.

(b) Projects shall contribute to public health by reducing pollution during the entire life of the project.

(c) No project is eligible for funding if it is required by any local ordinance or state or federal statute, rule or regulation or any other binding order.

(d) The state board, the Department of Food and Agriculture, and the Department of Conservation shall establish standards for eligible costs, appropriate matching requirements, and establish other grant and loan requirements as necessary to ensure maximum public benefits.

(e) All programs established pursuant to this chapter shall include a monitoring and reporting component to allow evaluation and modification of program requirements to achieve maximum air quality improvements.

44415. The sum of four billion dollars (\$4,000,000,000) shall be available from the fund for appropriation by the Legislature to the state board for allocation as follows:

1 (a) Four hundred million dollars (\$400,000,000) to provide
2 grants pursuant to Chapter 9 (commencing with Section 44275)
3 of Part 5 to offset the cost of technologies that reduce emissions
4 of oxides of nitrogen (NO_x), other than from farm equipment as
5 provided for by subdivision (b).

6 (b) One billion two hundred million dollars (\$1,200,000,000)
7 to provide grants pursuant to Chapter 9 (commencing with
8 Section 44275) of Part 5 to offset the cost of technologies that
9 reduce emissions of oxides of nitrogen (NO_x) from farm
10 equipment. Notwithstanding the provisions of that chapter or any
11 other provision of law, for the purposes of this subdivision,
12 engines powering farm equipment vehicles of any weight,
13 including portable equipment, may be eligible for grants, and are
14 not required to meet the cost-effectiveness criteria described in
15 Section 44283.

16 (c) Five hundred million dollars (\$500,000,000) to provide for
17 both of the following:

18 (1) The purchase of partial zero-emission vehicles, including,
19 but not limited to, advanced technology partial electric vehicles
20 popularly known as hybrid vehicles, targeted in areas of the state
21 that have been designated as a severe or extreme nonattainment
22 area for ozone. These incentives shall also include moneys to
23 offset the costs of eliminating all fees that are imposed on those
24 vehicles pursuant to the Vehicle Code.

25 (2) The development and purchase of propane, compressed
26 natural gas, and other alternative motor fuel technology.

27 (d) Four hundred million dollars (\$400,000,000) to provide
28 grants to districts, and any other public agency the state board
29 determines has the resources, to accelerate the use of improved
30 technology and conservation management plans prepared
31 pursuant to the environmental quality incentives program
32 authorized by the federal Agricultural Improvement and Reform
33 Act of 1996 (P.L. 104-127), as amended by the federal Farm
34 Security and Rural Investment Act of 2002 (P.L. 107-171) that
35 enhance air quality and environmental protection in connection
36 with agricultural activities in the state.

37 (e) Three hundred million dollars (\$300,000,000) to provide
38 moneys to districts for personnel and equipment to enhance the
39 assessment and monitoring of sources of emissions of air

1 contaminants, and the public health and environmental effects of
2 air pollution.

3 (f) Five hundred million dollars (\$500,000,000) to provide
4 moneys for all of the following:

5 (1) Grants for the purchase of new equipment for public health
6 officials to identify, assess, intervene, and prevent respiratory
7 illnesses created by air pollution.

8 (2) Funding for statewide standards and a database for use in
9 asthma screening procedures.

10 (3) Grants to fund asthma prevention, education, screening,
11 and treatment programs in schools.

12 (g) Three hundred million dollars (\$300,000,000) to fund
13 schoolbus and transit bus retrofit and engine replacement
14 programs and cleaner bus fueling infrastructure projects.

15 (h) Four hundred million dollars (\$400,000,000) to fund the
16 Innovative Clean Air Technology Program.

17 44416. The sum of four hundred million dollars
18 (\$400,000,000) shall be available from the fund for appropriation
19 by the Legislature to the Department of Food and Agriculture for
20 allocation to any or all of the following programs to promote the
21 air quality benefits resulting from those programs, based on a
22 determination made by the department of relative need:

23 (a) Reduction programs for concentrated animal feeding
24 operations to install anaerobic and aerobic digesters to generate
25 electricity from waste products.

26 (b) Grants for any of the following:

27 (1) Research on the effects of dairies on air quality, with
28 specific regard to particulate matter of 2.5 and 10 microns, and
29 reactive organic gases.

30 (2) Lining of ponds to reduce impact on the local water tables.

31 (3) Installation of flow-meters to control manure nutrient
32 application.

33 (4) Development of comprehensive nutrient management
34 plans.

35 (5) Performance of groundwater monitoring and instillation
36 required by regional water quality control boards.

37 (6) To support pilot projects designed to encourage the
38 development of biogas digestion power production technologies.

39 (c) The California Dairy Quality Assurance Program.

1 44417. The sum of two hundred fifty million dollars
2 (\$250,000,000) shall be available from the fund for appropriation
3 by the Legislature to the Department of Conservation for
4 allocation to either or both of the following programs in order to
5 promote the air quality benefits of undeveloped land in the state,
6 based on a determination made by the department of relative
7 need:

8 (a) The California Farmland Conservancy Program (Division
9 10.2 (commencing with Section 10200) of the Public Resources
10 Code).

11 (b) The Williamson Act (Chapter 7 (commencing with Section
12 51200) of Part 1 of Division 1 of Title 5 of the Government
13 Code).

14 44417.5. The sum of five hundred million dollars
15 (\$500,000,000) shall be available from the fund for appropriation
16 by the Legislature to the State Energy Resources Conservation
17 and Development Commission for allocation as follows:

18 (1) Three hundred million dollars (\$300,000,000) to provide
19 incentives to encourage the chipping and transportation of
20 agricultural wastes to biomass facilities that use the best available
21 control technology (BACT) to burn those wastes and generate
22 electricity.

23 (2) Two hundred million dollars (\$200,000,000) to fund the
24 Agricultural Biomass to Energy Program established pursuant to
25 Section 41606, which encourages the gathering, processing, and
26 transportation of agricultural waste to biomass facilities to
27 convert qualified agricultural waste into energy.

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29 CHAPTER 5. MISCELLANEOUS
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31 44418. Not more than 10 percent of funds allocated to any
32 program funded by this part may be used to finance monitoring,
33 research, planning, outreach or training necessary for the
34 successful implementation of the program.

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36 CHAPTER 6. FISCAL PROVISIONS
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38 44419. Bonds in the total amount of five billion one hundred
39 fifty million dollars (\$5,150,000,000), or so much thereof as is
40 necessary, not including the amount of any refunding bonds, or

1 so much thereof as is necessary, may be issued and sold to
2 provide a fund to be used for carrying out the purposes expressed
3 in this part and to reimburse the General Obligation Bond
4 Expense Revolving Fund pursuant to Section 16724.5 of the
5 Government Code. The bonds, when sold, shall be and constitute
6 a valid and binding obligation of the State of California, and the
7 full faith and credit of the State of California is hereby pledged
8 for the punctual payment of the principal of, and interest on, the
9 bonds as the principal and interest become due and payable.

10 44420. The bonds authorized by this part shall be prepared,
11 executed, issued, sold, paid, and redeemed as provided in the
12 State General Obligation Bond Law (Chapter 4 (commencing
13 with Section 16720) of Part 3 of Division 4 of Title 2 of the
14 Government Code), and all of the provisions of that law, apply to
15 the bonds and to this part and are hereby incorporated in this part
16 as though set forth in full in this division.

17 44421. (a) Solely for the purpose of authorizing the issuance
18 and sale, pursuant to the State General Obligation Bond Law, of
19 the bonds authorized by this part, the California Clean Air
20 Finance Committee is hereby established. For purposes of this
21 part, the California Clean Air Finance Committee is the
22 “committee” as that term is used in the State General Obligation
23 Bond Law. The committee consists of the Treasurer, the
24 Controller, and the Director of Finance, or their designated
25 representatives. The Treasurer shall serve as chairperson of the
26 committee. A majority of the committee may act for the
27 committee.

28 (b) For purposes of the State General Obligation Bond Law,
29 each state agency that administers an appropriation from the fund
30 is designated the “board.”

31 44422. The committee shall determine whether or not it is
32 necessary or desirable to issue bonds authorized pursuant to this
33 part in order to carry out the actions specified in this part and, if
34 so, the amount of bonds to be issued and sold. Successive issues
35 of bonds may be authorized and sold to carry out those actions
36 progressively, and it is not necessary that all of the bonds
37 authorized to be issued be sold at any one time.

38 44423. There shall be collected each year and in the same
39 manner and at the same time as other state revenue is collected,
40 in addition to the ordinary revenues of the state, a sum in an

1 amount required to pay the principal of, and interest on, the
2 bonds each year. It is the duty of all officers charged by law with
3 any duty in regard to the collection of the revenue to do and
4 perform each and every act that is necessary to collect that
5 additional sum.

6 44424. Notwithstanding Section 13340 of the Government
7 Code, there is hereby appropriated from the General Fund in the
8 State Treasury, for the purposes of this part, an amount that will
9 equal the total of the following:

10 (a) The sum annually necessary to pay the principal of, and
11 interest on, bonds issued and sold pursuant to this part, as the
12 principal and interest become due and payable.

13 (b) The sum necessary to carry out Section 44425,
14 appropriated without regard to fiscal years.

15 44425. For the purposes of carrying out this part, the Director
16 of Finance may authorize the withdrawal from the General Fund
17 of an amount not to exceed the amount of the unsold bonds that
18 have been authorized by the committee to be sold for the purpose
19 of carrying out this part. Any amount withdrawn shall be
20 deposited in the fund. Any money made available under this
21 section shall be returned to the General Fund from proceeds
22 received from the sale of bonds for the purpose of carrying out
23 this part.

24 44426. All money deposited in the fund that is derived from
25 premium and accrued interest on bonds sold shall be reserved in
26 the fund and shall be available for transfer to the General Fund as
27 a credit to expenditures for bond interest.

28 44427. Pursuant to Chapter 4 (commencing with Section
29 16720) of Part 3 of Division 4 of Title 2 of the Government
30 Code, the cost of bond issuance shall be paid out of the bond
31 proceeds. These costs shall be shared proportionally by each
32 program funded through this bond act.

33 44428. The agency that administers an appropriation from the
34 fund may request the Pooled Money Investment Board to make a
35 loan from the Pooled Money Investment Account, including
36 other authorized forms of interim financing that include, but are
37 not limited to, commercial paper, in accordance with Section
38 16312 of the Government Code, for the purpose of carrying out
39 this division. The amount of the request shall not exceed the
40 amount of the unsold bonds that the committee, by resolution,

1 has authorized to be sold for the purpose of carrying out this part.
2 The requesting agency shall execute any documents required by
3 the Pooled Money Investment Board to obtain and repay the
4 loan. Any amounts loaned shall be deposited in the fund to be
5 allocated by the requesting agency in accordance with this part.

6 44429. The bonds may be refunded in accordance with Article
7 6 (commencing with Section 16780) of Chapter 4 of Part 3 of
8 Division 4 of Title 2 of the Government Code, which is a part of
9 the State General Obligation Bond Law. Approval by the voters
10 of the state for the issuance of the bonds described in this part
11 includes the approval of the issuance of any other bonds issued to
12 refund any bonds originally issued under this part or any
13 previously issued refunding bonds.

14 44430. Notwithstanding any provision of this part or the State
15 General Obligation Bond Law, if the Treasurer sells bonds
16 pursuant to this part that include a bond counsel opinion to the
17 effect that the interest on the bonds is excluded from gross
18 income for federal tax purposes, subject to designated conditions,
19 the Treasurer may maintain separate accounts for the investment
20 of bond proceeds and for the investment earnings on those
21 proceeds. The Treasurer may use or direct the use of those
22 proceeds or earnings to pay any rebate, penalty, or other payment
23 required under federal law or to take any other action with
24 respect to the investment and use of those bond proceeds
25 required or desirable under federal law to maintain the
26 tax-exempt status of those bonds and to obtain any other
27 advantage under federal law on behalf of the funds of that state.

28 44431. The Legislature hereby finds and declares that,
29 inasmuch as the proceeds from the sale of bonds authorized by
30 this part are not “proceeds of taxes,” as that term is used in
31 Article XIII B of the California Constitution, the disbursement of
32 these proceeds is not subject to the limitations imposed by that
33 article.

34 SEC. 2. This act shall become effective upon the approval by
35 the voters of the California Clean Air Bond Act, as set forth in
36 Section 1 of the act adding this section.

37 SEC. 3. Section 1 of this act shall be submitted to the voters at
38 the November 14, 2006, statewide general election in accordance
39 with provisions of the Government Code and the Elections Code
40 governing the submission of statewide measures to the voters.

1 SEC. 4. (a) Notwithstanding any other provision of law, all
2 ballots at the election shall have printed thereon and in a square
3 thereof, the words: “California Clean Air Bond Act” and in the
4 same square under those words, the following in 8-point type:
5 “This act provides for a bond issue of five billion one hundred
6 fifty million dollars (\$5,150,000,000) to provide funds for an air
7 quality program.” Opposite the square, there shall be left spaces
8 in which the voters may place a cross in the manner required by
9 law to indicate whether they vote for or against the act.

10 (b) Notwithstanding Sections 13247 and 13281 of the
11 Elections Code, the language in subdivision (a) shall be the only
12 language included in the ballot label for the condensed statement
13 of the ballot title, and the Attorney General shall not supplement,
14 subtract from, or revise that language, except that the Attorney
15 General may include the financial impact summary prepared
16 pursuant to Section 9087 of the Elections Code and Section
17 88003 of the Government Code. The ballot label is the condensed
18 statement of the ballot title and the financial impact summary.

19 (c) Where voting in the election is done by means of voting
20 machines used pursuant to law in a manner that carries out the
21 intent of this section, the use of the voting machines and the
22 expression of the voters’ choice by means thereof are in
23 compliance with this section.